

1 Craig A. Marvinney, 0004951 (OH)
2 John M. Skeriotis, 0069263 (OH)
3 Jill A. Bautista, 0075560 (OH)
4 BROUSE MCDOWELL
5 388 S. Main Street, Suite 500
6 Akron, Ohio 44311-4407
7 Telephone: 330-535-5711
8 Facsimile: 330-253-8601
9 Email: cmarvinney@brouse.com,
10 jskeriotis@brouse.com,
11 jbautista@brouse.com

12 *Admitted pro hac vice*

13 Donald L. Myles, Jr., 007464(AZ)
14 JONES, SKELTON & HOCHULI, P.L.C.
15 2901 N. Central Ave., Suite 800
16 Phoenix, Arizona 85012
17 Telephone: 602-263-1700
18 Facsimile: 602-263-1784
19 Email: dmyles@jshfirm.com

20 *Attorneys for Defendant/Counterclaimant*
21 *Midwest Industrial Supply, Inc.*

22
23 **UNITED STATES DISTRICT COURT**
24 **IN AND FOR THE DISTRICT OF ARIZONA**
25

26 SOILWORKS, LLC, an Arizona
27 corporation,

28 Plaintiff / Counterdefendant /
Counterclaimant,

v.

MIDWEST INDUSTRIAL SUPPLY, INC.,
an Ohio corporation authorized to do
business in Arizona,

Defendant / Counterclaimant /
Counterdefendant.

NO.: 2:06-CV-2141-DGC

**[PROPOSED] ORDER CLARIFYING
ORDER OF AUGUST 7, 2008 [ECF
DOCKET NO. 94]**

SOILWORKS, LLC, an Arizona
corporation,

Plaintiff / Counterdefendant /
Counterclaimant,

v.

MIDWEST INDUSTRIAL SUPPLY, INC.,
an Ohio corporation authorized to do
business in Arizona,

Defendant / Counterclaimant /
Counterdefendant.

THIS MATTER comes before the Court upon Defendant/Counterclaimant *Midwest Industrial Supply, Inc.*'s Motion for Clarification of the Court's August 7, 2008 Order filed on August 19, 2008. Having reviewed *Midwest Industrial Supply, Inc.*'s Motion for Clarification, and this Court's August 7, 2008 Order, the Court hereby clarifies its Order of August 7, 2008, ECF Docket No. 94 by striking paragraph (h) on page 25 in its entirety and replacing it with the following paragraph:

(h) Soilworks' summary judgment motion for a declaration that Soilworks does not infringe the '266 and '270 Patents is denied.

IT IS SO ORDERED.

DATED: August __, 2008.

2